

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
April 13, 2010**

1. Present

Commissioners:

Sherwood Bishop, Chair
Bill Taylor, Vice-Chair
Randy Bryan (in at 6:02)
Bucky Couch
Jude Prather
Curtis O. Seebeck
Allen Shy
Jim Stark
Chris Wood

City Staff:

Matthew Lewis, Assistant Director
Francis Serna, Recording Secretary
Sofia Nelson, Senior Planner
Abigail Gillfillan, Planner

2. Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Bishop at 6:00 p.m. on Tuesday April 13, 2010 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

Chair Bishop welcomed the audience.

4. NOTE: *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*

5. Citizen Comment Period

David Mendoza, resident at 1909 Castle Gate Circle stated that he is an attorney with the District Attorney's Office and is present on his individual capacity. He is also the President of the Castle Forrest Association. He mentioned that he has lived at 1909 Castlegate for approximately 20 years. Mr. Mendoza added that his wife and kids were born and raised in San Marcos. He pointed out that he was present to speak regarding the Buie tract development. Mr. Mendoza stated that the Commission is aware of neighborhood concerns regarding the development of the area. Mr. Mendoza advised the Commission that he is presenting a letter to the Mayor and The Commission from the Castle Forrest Association requesting participation in the development. He said that the area is surrounded by single family neighborhoods. He added that the Castle Forrest Neighborhood would like to see the development consistent with their neighborhood. He stated

that the association does not want to see a sea of apartments which would be an eye sore. Mr. Mendoza pointed out that apartments would cause traffic issues. He asked the Commission to recommend to City Council that they create an Advisory Committee and requested that someone from the Castle Forrest Association be part of the committee. Mr. Mendoza stated that a committee would work well with the development and let the neighborhood be heard.

Item ZC-10-01 was moved before LUA-09-14.

6. ZC-10-01. Hold a public hearing and consider possible action on a request by Bernice Rainosek, for a Zoning Change from Office Professional (OP) to Neighborhood Commercial (NC) being approximately 0.53 acres, Part of lots 8 and 9, Block 1, of the John Scott Addition located at 705 W. Hopkins St.

Chair Bishop opened the public hearing.

Jean Baggett 726 W. Hopkins, President of Heritage Committee. She pointed out that the current business is being used by a chiropractor. Ms. Baggett said that the main issue is that the future use of the building is unpredictable. She mentioned that a boarding house, vacuum store and different business would be allowed in Neighborhood Commercial. She stated that the Heritage Association feels that this is not for the good of the neighborhood. Ms. Baggett believes it is not the intention of the current owners, but could be a problem in the future. She stated that the heritage, history and integrity of San Marcos are on Hopkins Street. She said they want to keep the historical presence in the neighborhood. She added that once the Wonder World extension is complete, Hopkins Street will return to a city street. She asked the Commission to consider her comments.

Peter Bowman, 716 W. Hopkins Street, lives across from the location and have the same concerns as Jean Baggett. After looking at possible uses, they identified that a welding shop and various other uses are permitted. He felt that the different uses will increase traffic flow and don't correspond to a historic community. Mr. Bowman stated if he would prefer the area to be completely residential.

Robin Bowman, 716 W. Hopkins stated that she is very concerned about the zoning change and urged the Commission not approve the request. Ms. Bowman stated that the neighborhood would decline in value if the lot were changed to Neighborhood Commercial. She added that the property is in a Historic District and weighing all the factors it is best to have Historic homes and not businesses that will cause a decline in the neighborhood.

Bernice Rainosek, owner of 705 W. Hopkins stated that she has requested a slight change in the zoning code. She explained that she would like to move her Merle Norman shop into the front part of the building. She stated that she has lost her chiropractor and in addition the County will also be abandoning the building. Ms. Rainosek stated that it will affect her and give her flexibility. She stated that she does not have heavy traffic and that people come and go. She added that the space is 600 sq. ft and asked the Commission to approve the request.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Seebeck, the Commission voted six (6) for and three (3) opposed, to approve the request. The motion carried. Commissioners Bishop, Bryan and Taylor voted no.

7. Hold a public hearing and consider possible action on the following:

- a. **LUA-09-14.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a land use map amendment from Very Low Density Residential (VLDR) to Mixed Use (MU) on 10.65 acres located at south of the Craddock Avenue and Bishop Street Intersection.
- b. **ZC-09-17.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a zoning change from Single Family (SF-6) to Mixed Use (MU) on 12.88 acres located at 1314 Franklin Dr.
- c. **LUA-09-16.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a land use map amendment from Very Low Density Residential (VLDR) to Mixed Use (MU) on .07 acres located north of Craddock Avenue.
- d. **ZC-09-19.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a zoning change from Future Development (FD) to Mixed Use (MU) on .07 acres located north of Craddock Avenue.
- e. **LUA-09-17.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a land use map amendment from Very Low Density Residential (VLDR) to Medium Density Residential (MDR) on 33.20 acres located north of Craddock Avenue and east of the Future Wonder World Extension.
- f. **ZC-09-18.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a zoning change from Single Family (SF-6) to Multi-Family (MF-12) on 5.64 acres located west of the future Craddock extension.
- g. **ZC-09-20.** A request by Baker-Aicklen & Associates, on behalf of Craddock Avenue Partners, LLC for a zoning change from Future Development (FD) to Multi-Family (MF-12) on 30.97 acres located at 1314 Franklin Dr.

Chair Bishop opened the public hearing.

Steve Ramsey and Ed Theriot, applicants gave a five minutes overview of the project.

Steve Ramsey, Baker-Aicklen & Associates, 2108 Hunter Rd gave overview of the letter received from TCEQ which was received on April 19, 2010. Mr. Ramsey stated with TCEQ approval they are ready to move forward. He asked the Commission for their approval of the request.

Ed Theriot, ETR Consulting 5395 Highway 183, Lockhart, requested a positive recommendation from the Commission. He explained that the zoning and land use map amendment are requested to implement the stipulations of the Development Agreement approved by City Council in December 2009. He pointed out that various folks available that can answer questions from the Commission.

Jo Schneider property owner of 1417 Franklin St. provided the Commission with a petition of 14 names against the request, LUA-09-14, ZC-09-17. He said the area between Craddock and Franklin will have a street as a buffer zone. Another issue is trash removal can be at any time-day or night. Mr. Schneider stated that the residents are concerned with the outdoor business lights, traffic, trash and noise. He added that the residents do not want the get the tail end of the businesses that will face Craddock. He added that they would like to see the area remain single family. Mr. Schneider asked the Commission to consider prior to their vote, if they would like to have a mixed use property across from their house at their front door.

Terry Whiteman, resident of 1403 Franklin for 25 years. She mentioned that she knows David Buie and his wife. Ms. Whiteman stated that with the permission of the Buie's, she used to go onto the property and explore the property and knows that there are caves on the property. She said that the caves are very shallow and that it is very dangerous to build on the caves. She agreed with Mr. Schneider and suggested that the applicant build single family homes to keep the neighborhood intact. Ms. Whiteman spoke in opposition to the request.

Diane Wassenich, 11 Tangelwood, with the San Marcos River Foundation as a staff person stated that they have sent comments to TCEQ on the geologic assessment and have done quite a bit of research. She mentioned that they were very concerned about the Craddock extension while discussing what geologic features were on this tract. She found out that the City's Craddock extension is not covered by the Buie tract. Ms. Wassenich stated they have serious concerns regarding the lack of information in the TCEQ assessment. She strongly recommended that the Commission familiarize themselves with the geologic assessment because the features are not going to go away. Ms. Wassenich added that there is rapid flow to San Marcos Springs and over 50 rock piles that must be further investigated. She pointed out that the newest geologic assessment complained that some of the creeks are lined with sediment so they wouldn't be good recharge features. In addition, they felt that the clearing that went on early caused the important recharge feature creeks to be filled with sediment. The developers should be required to clean out the recharge features. Ms. Wassenich stated that they will continue to work diligently on the issues with the Water Quality Pollution and Abatement Plan Process with the City, the County, TCEQ, and US Fish and Wildlife. She urged the Commission to vote no.

Tom Hayes, Science Director for the Greater Edwards Aquifer Alliance Group and the San Marcos River Foundation stated they have been very concerned with the process. He explained that the geologic assessment found more than 5 dozen caves and recharge features on the property. He said they believe that the heavy bulldozing that occurred in 2007 covered various recharge and cave features. He asked the Commission not to issue a zoning change for the property. He asked the Commission to initiate an investigation. Mr. Hayes said they believe there are violations of federal law on endangered species. He urged the Commission to read the letter to TCEQ from the San Marcos River Foundation and the Greater Edwards Aquifer Alliance Group.

Shannon Dorsey, Horizon Environmental Consulting, 1505 S. IH 35, Austin, Texas stated that they are the subcontractors who conducted the geologic assessment. He said that they have identified the 3 caves located on the site and have negotiated with TCEQ and 13 additional sensitive environmental features which will have appropriate buffers. He explained that he conducted the previous geological assessments and determined that it was not suitable habitat due to the increasing fragmentation of the property. Mr. Dorsey explained that buffer areas can be negotiated and the developer can begin work around the features.

Chris North, 1407 Prospect and CONA Representative for the Westover Neighborhood Association stated that she agrees with all the comments so far in opposition to project as is being presented. Ms. North said she would like to talk about the process, she felt it was deeply flawed. She added that she disagrees with staff recommendation and the process of the Development Agreement which was approved by City Council in December 2009. She pointed out that the Development Agreements states that the city does not have control over the ETJ is completely false. The City has the power to protect our neighborhoods and the Edward's Aquifer under the current Land Development Code. She commented that the land has been in City's annexation plan for years and we do not have to negotiate with anyone and go by plan. Ms. North stated that the Council entered into an annexation agreement and would like to see the legality from the Legal Department or the State Attorney General. She asked the Commission to deny the request.

Camille Phillips, resident on Franklin Drive asked the Commission to postpone or deny the request of the Buie tract. She reminded the Commission that under Texas law zoning is discretionary. Ms. Phillips commented that two people on dais said that, "we need to stop the brain drain with the people who work in San Marcos and don't live here." She asked the Commission to postpone the request and for a thorough investigation.

Bill Meek, 114 Kathryn Cove, President of Franklin Square Homeowners Association stated he was present to speak on behalf of the Board. He said that the board has added two members and currently have five members. Mr. Meek said that they are, in agreement with original request in December. He commented that they believe in live, work and play in San Marcos, a new concept and it is time to move forward. He added that the HOA and the LLC have been in negotiation for months and have come to terms. He pointed out it is a business to business agreement. He explained that the 5 acre tract is not a public park as of yet but is common space that the Board will recommend to the community what they can do with the property. Mr. Meek said that they respect the finding of all the reports from TCEQ, City Planners and Government Agencies, therefore support their findings. He asked the Commission to support the request. He added that this is the first step which is zoning and that the developer has been responsible. Mr. Meek continued to say that they are adjacent property and the community most impacted.

Jessica Henry, 2014 Nevada Street stated that she purchased her home 3 years ago because it is family oriented and is concerned that the property will be book ended with another Sagewood. She asked the Commission to keep the neighborhood single family only. Ms. Henry commented that growth is inevitable and that the Buie tract is prime real estate, but that there are two kinds of development, responsible and irresponsible. She explained that she has experience with both types of expansion in a development. Ms. Henry stated that if the Commission decides to approve the request that the 5 acres be given to Parks and Recreation Department for everyone to use. In addition if the Commission approved the commercial and multi-use request, that they place restriction on the type of business that are allowed. She asked the Commission to deny the request.

Gail Ramsey, 1600 block of Lancaster and an owner resident stated she moved to San Marcos from Houston, Texas. She expressed her concerns that the developer had done some preparation of the land that is questionable. She feels that the developer started on the wrong foot and does not build confidence by the neighbors. Ms. Ramsey explained that they are concerned about traffic, aging of the apartments, although that is up to the owners and how they perceive the property and choose to maintain it. She said that they would feel better about it if the developer would not have taken action prior to the request. Ms. Ramsey asked the Commission not to deny the request but to give them time to study the proposal so that they have a better idea of what could possibly improve the development. She added that the Commission is responsible for what will happen in their neighborhoods. She asked the Commission not to reach a decision and give them two weeks to review what has been presented and return with their comments.

Tim Grawkey, 805 Franklin Drive explained that he grew up in North Austin which is horrendous and decided to move to San Marcos to get away from that environment. He said he chose the location because it is an older established neighborhood which is quiet and peaceful. He added that traffic has increased and that there is constant drag racing on Franklin. Mr. Grawkey stated that the development is not going to help in slowing down the traffic. He added that there has been no discussion regarding traffic flow. Mr. Grawkey advised the Commission that he called apartment complexes in the area and was told that they are not even close to full occupancy. He urged the Planning Commission to approve single family development which is more conducive to the neighborhood.

Rick Coleman, Managing Partner of Craddock Avenue Partners, stated he heard concerns that he would like to clear up. He said the first issue is illegally clearing of the cedar trees on the property. He explained when they started to clear the property; an investigator from Texas Commission on Environmental Quality, Russ Alexander came to investigate. Mr. Alexander was advised that they were clearing the property under an agriculture exemption. In the final report from Mr. Alexander, he stated that no violations were found. Mr. Coleman stated that the same family, The Harold Teagan family, has had the property for at least 40-50 years. He added that Mr. Teagan told him that the property now looks better than when the Buie's took over and maintained the property. Mr. Coleman said the second concern regarding habitat for endangered

species was destroyed by the clearing. He explained that prior to the purchase of the property, he received a report from Horizon Environmental stating that the property did not have habitat for endangered species.

Gordon Muier, Craddock Avenue Partner stated they have been working on the project for the last 3 years. He said that they have gone out of their way to involve the community and have spoken to various neighborhood groups and enjoyed meeting everyone. He explained that they have reserved 4 lots of phase 3 and his goal is to raise his family in San Marcos. He thanked the Commission for considering the request.

Sherry Bilson, 2006 Lisa Lane stated she is against the request. She mentioned she was glad Franklin Square Association stated that they only represent 7 people and they do not represent 65 other homes. She expressed concerns regarding the 5 acres and commented if they lock up the area, there is no access to purgatory green space. Ms. Bilson added that San Marcos neighborhoods are threatened in being lost. She added that everyone will cut through Franklin Drive. She asked the Commission to consider the population increase and to deny the request.

Pam Couch, 203 Sierra Ridge, stated that many concerns have been heard. She said that she has never seen a developer go the second mile to take care of concerns. Ms. Couch pointed out that people in audience that have concerns are not the only ones that are concerned with the quality of life. Ms. Couch added that she truly thinks that we have a great opportunity to move forward that the master plan has called for. She commended the developer and Franklin Square for working together and that it shows that we can move forward with a great development. Ms. Couch also thanked the Buie Tract people for having chosen to come to our community.

Rich Salas, 900 Franklin Drive., President of the Oak Heights Neighborhood Association said he appreciates the Commission for their time they spend on the board. He stated that he is not real excited about the apartment complex but would hope that they put the same diligence on the previous case towards this proposal. Mr. Salas asked that the Commission take the citizen comments into consideration. He stated he was in opposition to the request and would like to maintain the same neighborhood.

Teresa Mitchell, 2003 Lancaster, stated they built their home 10 years ago which was only single family homes. She said she chose the house because they felt that the City would support them. Ms. Mitchell commented that she managed apartments for fifteen years and finally resigned because the occupancy rate is terrible. She added that she does not want the investment in her home to go down.

There were no additional citizen comments and the public hearing was closed.

There was a ten minute recess.

MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Taylor the Commission voted nine (9) for and none (0) opposed, to approve LUA-09-14 from Very Low Density Residential to Mixed Use. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Shy, the Commission voted all in favor to approve LUA-09-16 from Very Low Density Residential to Mixed Use. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Wood the Commission voted all in favor to approve ZC-09-17 from Single Family (SF-6) to Mixed Use. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Prather the Commission voted all in favor to approve ZC-09-19 from Future Development to Mixed Use. The motion carried unanimously.

MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Shy the Commission voted seven (7) for and two (2) opposed, to approve LUA-09-17 from Very Low Density Residential to Medium Density Residential. The motion carried. Commissioners Bishop and Bryan voted no.

MOTION: Upon a motion made by Commissioner Taylor and a second by Commissioner Shy the Commission voted eight (8) for and one (1) opposed, to approve ZC-09-18 from Single Family (SF-6) to Multi-Family (MF-12). The motion carried. Commissioner Bishop voted no.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Prather the Commission voted seven (7) for and two (2) opposed, to approve ZC-09-20 from Future Development to Multi-Family (MF-12). The motion carried. Commissioners Bishop and Bryan voted no.

8. Discussion Items.

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

Chair Bishop expressed on behalf of the Board his condolences to the Gwen Smith family. He said that Gwen Smith has been a great asset and joy to the community.

Planning Report

Matthew Lewis thanked the public for their participation and input on the Charrette held on April 6-9. Staff will be in the process of writing the proposed code and have a draft in approximately 6-8 weeks. Mr. Lewis advised the Commission that staff will be giving the Commission a recap of the Planning & Zoning Commission Retreat. He stated that several items discussed during the retreat were brought before the Commission by citizens. In addition, suggestions are being included in the code amendments. Mr. Lewis added that staff will present the Commission with a recap of the retreat at the next Planning Commission meeting.

Chair Bishop commented that the consultants, PlaceMakers presented a lot of virtual reality suggestions. He said the website is codingsanmarcos.com for all to view.

Commissioners' Report

9. Consider approval of the minutes from the Regular Meeting of March 23, 2010.

MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Wood, the Commission voted eight (8) for, none (0) opposed, one (1) abstained to approve the Regular Meeting Minutes of March 23, 2010. The motion carried. Commissioner Seebeck abstained.

10. Questions and answers from the Press and Public.

There were no questions from the press and public.

11. Adjournment

Chair Bishop adjourned the Planning and Zoning Commission at 8:41 p.m. on Tuesday, April 13, 2010.


Sherwood Bishop, Chair


Bill Taylor, Vice-Chair

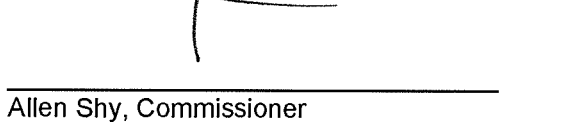

Jim Stark, Commissioner


Randy Bryan, Commissioner


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Allen Shy, Commissioner


Curtis Seebeck, Commissioner

ATTEST:


Francis Serna, Recording Secretary